

The opinion in support of the decision being entered today is not binding precedent of the Board.

Paper 1

Filed by: Fred E. McKelvey  
Senior Administrative Patent Judge  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Filed  
23 January 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

JAN 23 2002

WILLIAM HARRIS, CHRISTOPHER HUW HILL,  
and IAN EDWARD DAVID SMITH,

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Junior Party,  
(Patent 6,150,373),

v.

ELLEN MYRA DOBRUSIN, JAMES MARINO HAMBY,  
JAMES BERNARD KRAMER, MEL CONRAD SCHROEDER,  
HOWARD DANIEL HOLLIS SHOWALTER, PETER TOOGOOD  
and SUSANNE A. TRUMPP-KALLMEYER,

Senior Party  
(Application 09/623,737).

Patent Interference 104,798 (McK)

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties.

Details of the applications, patent, count and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Senior Administrative Patent Judge Fred E. McKelvey has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for 10:00 a.m. (1000 hours) on **6 March 2002** (the call will be initiated from the PTO).

No later than **1 March 2002**, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

**Junior Party**

Named inventors: William Harris, UK  
Christopher Huw Hill, UK  
Ian Edward David Smith, UK

Patent: U.S. Patent 6,150,373,  
granted 21 November 2000,  
based on application 09/422,451,  
filed 21 October 1999

Title: Bicyclic nitrogen heterocycles

Assignee: Hoffmann-LaRoche, Inc.

Accorded Benefit: None<sup>1</sup>

Attorneys: See last page

Address: See last page

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<sup>1</sup> Harris claims priority under 35 U.S.C. § 119 of (1) British patent application 98-23277, filed 23 October 1998, and (2) British patent application 99-20044, filed 24 August 1999. Harris may file a preliminary motion seeking to be accorded benefit for the purpose of priority of both British patent applications. 37 CFR § 1.633(f).

Senior Party

Named Inventors: Ellen Myra Dobrusin, MI  
James Marino Hamby, MI  
James Bernard Kramer, OH  
Mel Conrad Schroeder, MI  
Howard Daniel Hollis Showalter, MI  
Peter Toogood, MI  
Susanne A. Trumpp-Kallmeyer, GER

Application: Application 09/623,737,  
filed 7 September 2000

Title: Bicyclic pyrimidines and bicyclic 3,4-dihydropyrimidines as inhibitors of cellular proliferation

Assignee: Warner Lambert Company

Accorded Benefit: PCT application PCT/US99/10187,  
filed 10 May 1999<sup>2</sup>

Attorneys: See last page

Address: See last page

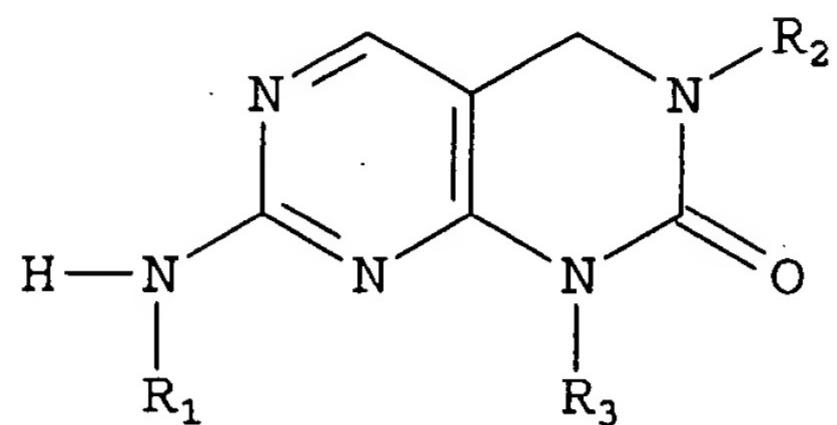
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<sup>2</sup> Dobrusin also claims priority based on U.S. Provisional Application 60/086708. Dobrusin may file a preliminary motion seeking to be accorded benefit for the purpose of priority of the provisional application. 37 CFR § 1.633(f).

**Part F. Count and claims of the parties**

Count 1

A compound having the formula:



where:

- R<sub>1</sub> is selected from the group consisting of hydrogen [-H], alkyl having 1-7 carbon atoms and cycloalkyl having 3-7 carbon atoms;
- R<sub>2</sub> is selected from the group consisting of alkyl having 1-7 carbon atoms and cycloalkyl having 3-7 carbon atoms; and
- R<sub>3</sub> is selected from the group consisting of hydrogen [-H], alkyl having 1-7 carbon atoms and cycloalkyl having 3-7 carbon atoms.

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

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Paper       <sup>3</sup>

Filed on behalf of [name of party]

By: Name of lead counsel, Esq.

Name of backup counsel, Esq.

Street address

City, State, and Zip-Code

Tel:

Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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WILLIAM HARRIS, CHRISTOPHER HUW HILL,  
and IAN EDWARD DAVID SMITH,

Junior Party,  
(Patent 6,150,373),

v.

ELLEN MYRA DOBRUSIN, JAMES MARINO HAMBY,  
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(Application 09/623,737).

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Patent Interference 104,798 (McK)

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TITLE OF PAPER

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<sup>3</sup> Leave a blank line because the board assigns the paper number.

The claims of the parties are:

Dobrusin: 1-16, 26-36 and 42-53

Harris: 1-16

The claims of the parties which correspond to Count 1, and therefore are involved in the interference (35 U.S.C. § 135(a)) are:

Dobrusin: 1-2, 7-8, 43 and 47

Harris: 1

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Dobrusin: 3-6, 9-16, 26-36, 42, 44-46 and 48-53

Harris: 2-16

**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1. § 7: date for identifying lead and backup counsel.
2. § 8: date for identifying any real party in interest.
3. § 9: date for requesting copies of involved and benefit applications and patents.
4. § 17: date for filing list of proposed preliminary motions.
5. § 19: date for accomplishing certain discovery.
6. § 20: date for filing clean copy of claims.
7. § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8. § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9. § 33: date for objecting to admissibility of evidence.
10. § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11. § 35: dates when cross-examination can take place.
12. § 45: dates for taking action with respect to settlement discussions

**Part I. Order form for requesting file copies**

**FILE COPY REQUEST**

Interference 104,798 (McK)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
  2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).
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- 

Telephone, including area code: \_\_\_\_\_

**Part J. Signature of administrative patent judge**

*mck*

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Fred E. McKelvey  
Senior Administrative Patent Judge

23 January 2002  
Arlington, VA

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in  
the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in  
the testimony and briefing phases of the interference  
(ORDERTE6)

Copy U.S. Patent 6,150,373

Copy of application, claims, Office action (Paper 4) and  
Amendment A (Paper 6) of application 09/623,737

There is no form 850

DECLARE.007

Revised September, 2000  
(replaces DECLARE.006.1)

104,798

cc (via Federal Express) :

Attorney for Harris  
(real party in interest  
Hoffman LaRoche Inc.) :

George W. Johnston, Esq.  
HOFFMANN LaROCHE, INC.  
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Tel: None  
Fax: None  
E-mail: None

Attorney for Dobrusin  
(real party in interest  
Warner Lambert Company) :

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WARNER LAMBERT COMPANY  
2800 Plymouth Road  
Ann Arbor, MI 48105

Tel: None  
Fax: None  
E-mail: None